

Abstract

This diploma thesis deals with the institute of Cooperating defendant. In particular, it focuses on its relation to the basic principles governing the Czech criminal proceedings, as well as selected aspects of its legal regulations.

The institute of cooperating defendant has been in legal force since January 2010. Its legal regulation may be found in the legal provision 178a of the Code of Criminal Procedure. The Criminal Code contains substantive legal provisions defining the consequences related to the attainment of the cooperating defendant designation. Such consequences especially include the exceptional reduction of the length of imprisonment or even complete waiver of any sort of punishment.

The institute is typically used as a tool to fight organized crime. The institute has its roots in the common law legal system from which a lot of European countries have been importing many other legal institutes, especially in the last three decades, to speed up criminal proceedings, help solve the lack of evidence and fight against organized crime which poses a threat to the society as well as the democratic state.

The import of legal institutes that are otherwise typical for the common law system, however, poses many obstacles, especially because the criminal proceedings of the continental legal system are based on quite different principles. While criminal proceedings in the common law system are based on the principle of opportunity, such proceedings in the continental system are governed by the principle of legality. This diploma thesis concludes that the legal regulations dealing with the institute of cooperating defendant particularly violate the principle *nemo tenetur se ipsum accusare* and its substantive legal regulations (i.e. the possibility of waiving punishment as a whole) violate basic principles related to criminal sentencing.

This diploma thesis also analyzes both legal regulations of the criminal proceedings, as well as substantive legal regulations that govern the application of the institute. In particular, it addresses the problem of unsatisfying procedural standing of the cooperating defendant, as well as certain unclarities regarding interpretation of some of its legal provisions. This diploma thesis also expresses the author's negative attitude toward the new possibility of waiving punishment of the cooperating defendant. The thesis also mentions a lot of thoughts and suggestions *de lege ferenda* which, according to the author, the future legal provisions should reflect upon.